

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF GEORGIA
BRUNSWICK DIVISION**

JOSEPH POPPELL, et al.

Plaintiffs,

v.

CARDINAL HEALTH, INC., et al.,

Defendants.

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Civil Action No. 2:19-cv-00064-LGW-BWC

**REPLY BRIEF TO PLAINTIFFS' RESPONSE
TO DEFENDANTS' EMERGENCY MOTION TO
EXTEND DEADLINE TO ANSWER OR OTHERWISE RESPOND**

Defendants Cardinal Health, Inc., Cardinal Health 108, LLC, Cardinal Health 110, LLC, Cardinal Health 112, LLC, Cardinal Health 113, LLC, Cardinal Health 116, LLC, Cardinal Health 200, LLC, Cardinal Health 414, LLC, McKesson Corporation, McKesson Drug Company, LLC, McKesson Medical-Surgical, Inc., and McKesson Medical-Surgical Minnesota Supply, Inc. ("Moving Defendants") are requesting an extension of time to answer the Complaint or to move in response to it, including filing a Rule 12(b) motion, until the later of thirty days after (1) this Court's ruling on any motion to remand, or (2) the entry of a decision by the JPML granting a motion to vacate a conditional transfer order covering this action (or otherwise finally denying transfer of this action to the MDL).

Plaintiffs oppose the motion but agree to an extension until June 18, 2019. Plaintiffs' opposition is based on the contention that this Court should remand the case to the Glynn County Superior Court and that it should not be transferred to the MDL, but they make no argument as to

why the parties should proceed with briefing on motions to dismiss before this Court at this time. To the contrary, Plaintiffs' insist that this Court lacks jurisdiction over this matter, and they do not explain why they wish for this Court to receiving briefing on motions that they contend it does not have jurisdiction to decide.

Moving Defendants' requested extension is expeditious and practical. Moving Defendants intend to move to dismiss pursuant to Rule 12(b), but this Court has no need of the Moving Defendants' answer or motion in order to decide a motion to remand. With due respect to Plaintiffs' argument, it makes no sense to require Moving Defendants to submit their Rule 12(b) motion or answer before the later of thirty days after this Court's ruling on any motion to remand, or the entry of a decision by the JPML granting a motion to vacate a conditional transfer order covering this action (or otherwise finally denying transfer of this action to the MDL).

It also bears mention that, in numerous other opioid-related cases removed to a federal court in Georgia by the same or related national defendants on the same jurisdictional grounds, district courts have granted the same or materially similar extensions of time when requested. *See Bolton v. Bynes*, No. 4:18-cv-00136-RSB-JEG (S.D. Ga. June 13, 2018), ECF No. 12 (order extending deadline to answer, object, plead, move, or otherwise respond to complaint until 45 days after ruling on remand motion or decision by JPML regarding transfer to the MDL); *County of Fannin v. Rite Aid of Georgia, Inc.*, No. 2:18-cv-00220-RWS (N.D. Ga. Nov. 26, 2018), ECF No. 5 (order extending deadline to answer, object, plead, move, or otherwise respond to complaint until 45 days after ruling on remand motion); *Henry County v. Purdue Pharma, LP, et al.*, No. 1:18-cv-03899-AT (N.D. Ga. Aug. 24, 2018), ECF No. 6 (order extending deadline to answer, object, plead, move, or otherwise respond to complaint until 30 days after ruling on remand motion or decision by JPML regarding transfer to the MDL); *City of Atlanta v. Purdue Pharma L.P.*,

No. 1:18-cv-03508-SCJ (N.D. Ga. July 30, 2018), ECF No. 5 (order extending deadline to answer, object, plead, move, or otherwise respond to complaint until 30 days after ruling on remand motion); *ApolloMD Business Services, LLC v. Attain Med, Inc.*, No. 1:18-cv-01662-SCJ (N.D. Ga. Apr. 26, 2018), ECF No. 13 (order extending deadline to answer, object, plead, move, or otherwise respond to complaint until 45 days after ruling on remand motion or decision by JPML regarding transfer to the MDL); *Fulton County v. Purdue Pharma L.P.*, No. 1:17-cv-04757-ELR (N.D. Ga. Dec. 4 2017), ECF No. 7 (ordering that Distributor Defendants are not required to answer, move, or otherwise respond to the complaint).

Unless the Court grants the Defendants' Emergency Motion before May 28, 2019, Defendants respectfully request that the Court enter an order extending the time within which the Moving Defendants may answer the Complaint or to move in response to it, including filing a Rule 12(b) motion until June 18, 2019.

Respectfully submitted, this 23rd day of May, 2019.

HUNTER, MACLEAN, EXLEY & DUNN, P.C.

s/ John M. Tatum

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CERTIFICATE OF SERVICE

I hereby certify that on this 23rd day of May, 2019, a copy of the foregoing **REPLY BRIEF TO PLAINTIFFS' RESPONSE TO DEFENDANTS' EMERGENCY MOTION TO EXTEND DEADLINE TO ANSWER OR OTHERWISE RESPOND** was electronically filed with the Clerk of court using the court's CM/ECF system which will automatically serve all counsel of record.

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